

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/062,623	BOROVSKY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph T. Weitach	1632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to August 5, 2004.
2. ☒ The allowed claim(s) is/are 71-77, 79-124, 127-142.
3. ☒ The drawings filed on 31 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

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### **DETAILED ACTION**

This application filed January 31, 2002, is a continuation in part of application 09/295,849, filed April 21, 1999, now abandoned.

Applicants' amendment filed August 5, 2004, has been received and entered. Claims 1-70, 78, 125 and 126 have been canceled. Claims 141 and 142 have been added. Claims 71, 85, 86, 99, 105, 111 and 133 have been amended. Claims 71-77, 79-124, 127-142 are pending .

### ***Election/Restriction***

It is noted that Applicant's election of Group II, drawn to methods and compositions for pest control wherein NPF peptides are administered to pests via recombinant cells expressing the peptides with traverse was acknowledged. The election of a species of NPF polypeptide was withdrawn because it was not considered to be an undue burden to examine the genus of NPF peptides taught in the specification. Newly added claims 141 and 142 are encompassed by the elected invention. Claims 71-77, 79-124, 127-142 are pending and currently under examination.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

The cancellation of claims 125 and 126 has obviated the rejection of record. The instant amendments to the claims has not raised any new rejections, and simply more clearly defines the claimed invention. The specific SEQ ID NOs are free of the art of record recited and encompassed by the claims are free of the art of record. The present disclosure is the first to

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identify and describe these polynucleotide sequences as providing pesticidal peptides. Further, the in light of the teachings in the specification and the art of record, these sequences can be used as expression vectors to produce the pesticidal peptides or as delivery vehicles for expression of the vectors in a variety of different host cells.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (571) 272-0739.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at (571) 272-0734.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (571) 272-0532.

Joseph T. Woitach

JOSEPH WOITACH  
PATENT EXAMINER  
*Joe Woitach*  
AU1632

71-77 77, 124 127-142

$\begin{array}{c} \textcircled{71} - \textcircled{72} \\ / \quad \backslash \quad / \\ 77 \quad \textcircled{75} - 76 \end{array}$   
79-98

$\textcircled{99} - 100 - \overset{104}{\underset{1}{103}}$

$\textcircled{105} - 106 - \overset{110}{109}$

$\textcircled{111} - 112 - 132$

$\textcircled{133} - 134 - 140$

141

142